# UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD SUBREGION 33

## ANCHOR-HARVEY COMPONENTS, LLC

**Employer-Petitioner** 

and Case 33-RM-373

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA AND ITS LOCAL 2127<sup>1</sup>

Union

# REGIONAL DIRECTOR'S DECISION AND DIRECTION OF ELECTION

The Employer-Petitioner, Anchor-Harvey Components, LLC, filed an RM petition with the National Labor Relations Board under Section 9(c) of the National Labor Relations Act<sup>2</sup>. A hearing officer of the Board held a hearing.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Based upon the entire record<sup>3</sup> in this matter, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.

The Union's name appears as amended at hearing.

A collective bargaining agreement between the Employer-Petitioner and the Union covering the petitioned-for unit and effective from October 1, 2000 through September 30, 2003 was admitted into evidence.

Briefs were filed by both parties and were fully considered.

- 2. The Employer-Petitioner is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.
  - 3. The Union claims to represent certain employees of the Employer-Petitioner<sup>4</sup>.
- 4. A question affecting commerce exists concerning the representation of certain employees of the Employer-Petitioner within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.<sup>5</sup>
- 5. The following employees of the Employer-Petitioner constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time production and maintenance employees and excluding all office, clerical and professional employees, guards and supervisors as defined in the National Labor Relations Act, employed in the Company's plant at 600 West Lamm Road.

#### **DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by International Union, United Automobile, Aerospace and Agricultural Implement Workers of America and its Local 2127. The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this Decision.

The parties stipulated and I find the Union is a labor organization within the meaning of the Act.

At hearing, the Union moved to dismiss the instant position contending that the Employer, Patitic

At hearing, the Union moved to dismiss the instant petition contending that the Employer- Petitioner's good-faith reasonable uncertainty as to the Union's majority status was tainted. See *Levitz Furniture Company of the Pacific, Inc.*, 333 NLRB 717 (2001). I take administrative notice that the issues of taint are the subject of unfair labor practice charges in Cases 33-CA-14980 and 33-CA-15021, which I dismissed and which are currently pending before the Office of Appeals. Therefore, the Union's motion to dismiss is denied.

### A. Voting Eligibility

Eligible to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition in an economic strike, which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers, but who have been permanently replaced, as well as their replacements, are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

#### B. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full

names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Subregional Office, 300 Hamilton Boulevard, Suite 200, Peoria, IL 61602, on or before **April 12, 2006**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (309) 671-7095. The list also may be submitted by electronic mail to the Subregional Office at **Subregion33@nlrb.gov**. Since the list will be made available to all parties to the election, please furnish a total of **two** copies, unless the list is submitted by facsimile or by electronic mail, in which case no copies need be submitted. If you have any questions, please contact the Subregional Office.

## C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices of Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed.

Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club* 

- 5 -

Demonstration Services, 317 NLRB 349 (1995). Failure to do so estops employers from filing

objections based on nonposting of the election notice.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request

for review of this Decision may be filed with the National Labor Relations Board, addressed to

the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-0001. This request

must be received by the Board in Washington by 5 p.m., EST on April 19, 2006. The request

may **not** be filed by facsimile.

**E-Filing:** In the Regional Office's initial correspondence, the parties were advised that

the National Labor Relations Board has expanded the list of permissible documents that may be

electronically filed with the Board in Washington, DC. If a party wishes to file one of these

documents electronically, please refer to the Attachment supplied with the Regional Office's

initial correspondence for guidance in doing so. The guidance can also be found under "E-Gov"

on the National Labor Relations Board web site: www.nlrb.gov.

Dated: April 5, 2006

/s/ Will J. Vance

Will J. Vance, Acting Regional Director, R-14

National Labor Relations Board

Subregion 33